IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE DR JUSTICE G.YETHIRAJULU**

**WRIT PETITION NO : 19559 of 2004**

Between:

Sri Ravi Oil Trading Company, Indian Oil Dealer, rep by Managing Partner Sri K.V. Phani Raj S/o K.V. Nagabhusanam R/o Dhone, Kurnool District

**..... PETITIONER**

AND

1 Indian Oil Corporation, rep by Chief Divisional Sales Manager 3-6-436to 438, 2nd floor, Naspur House, Himayatnagar, Hyderabad.
2 The Assistant Manager (RS), Kurnool, Kurnool District
3 Union of India, rep by Secretary, Ministry of Petroleum, New Delhi

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus by declaring the action of the 1st respondent in suspending the sales of the products at the retail outlet of the petitioner vide show-cause notice dt. 15-10-2004 is illegal, arbitrary, without jurisdiction and violative of principles of natural justice and consequently set-aside the same and to pass such other and further order/s as are deemed fit and proper by the Hon'ble Court.

**Counsel for the Petitioner: MR.B.VIJAYSEN REDDY**

**Counsel for the Respondents: MR.A.RAJASHEKAR REDDY (SC FOR CG)**

**The Court at the stage of admission, made the following :**

**ORAL ORDER**

The petitioner is a dealer in petroleum products of the 1st respondent-Corporation. The petitioner was appointed as a dealer in 1970 and he has been doing the business by following the terms and conditions of the dealership and agreement from time to time. On 12-10-2004 the 2nd respondent collected samples of HSD and MS from the retail outlet of the petitioner. Subsequently, the 1st respondent issued the impugned show-cause notice dated 15-10-2004 by mentioning that the HSD sample taken from the retail outlet failed to meet the specifications, on account of detection of "furfural" in the sample, directing the petitioner to explain within seven (7) days as to why the HSD sold by him at the retail outlet failed to meet the specifications. Simultaneously it was mentioned in the notice that the sales of all products at the retail outlet have been suspended with effect from 15-10-2004. The petitioner, being aggrieved by the order of suspension of the sales of all the products at its outlet, approached through this writ petition seeking to declare that the action of the 1st respondent in suspending the sales of all the products at the retail outlet as illegal, arbitrary, without jurisdiction and violative of principles of natural justice.

The learned counsel for the petitioner represents that the petitioner is running the outlet for more than 30 years and it is one of the reputed dealers of the respondent-Corporation, which has got the reputation of maintaining the quality and quantity for the products of the respondent-Corporation. It is unjust on the part of the Corporation to suspend the sales of all products from the outlet, on the ground that the HSD sample taken from the retail outlet did not meet the specifications.

The learned counsel for the respondent represented that as per the guidelines issued by the Government of India, the respondent-Corporation has every right to suspend the sales of all the products at the outlet, pending enquiry regarding the failure of the samples to meet the specifications. Therefore, the petitioner who is expected to give an explanation to the show-cause notice and who failed to do the same, can not seek any relief from this Court and as the impugned notice was issued due to failure of the petitioner in complying the contractual obligations, the writ petition cannot be maintained.

The petitioner is not questioning the show-cause notice. He submits that he is ready to give the explanation to the show-cause notice after receipt of a copy of analyst report, if any, regarding the cause of adulteration of HSD and the petitioner also made a request on 20-10-2004 requesting the 1st respondent to provide a copy of report of analyst to enable him to give the reply to the show cause notice. The main grievance of the petitioner is that even though the respondent has the power to impose penalty to an extent of Rs.20,000/- and suspension of sales at the outlet for a period of 30 days after finding the petitioner guilty of adulteration, imposing the order of suspension of sales by pre-judging the matter without waiting for the reply to the show cause notice amounts to an arbitrary action on the part of the respondent affecting the reputation of the petitioner to a large extent. Whenever there is a check of the retail outlet, and, finding samples failing to meet the specifications, the respondent may seize that product which failed to meet the specifications or suspend the sales of that particular product. But, in the show-cause notice, it is indicated that the sale of all the products other than HSD also suspended. The order of suspension was imposed on 15-10-2004 and it was in force till today i.e., for a period of 12 days. In the event of the respondent coming to a conclusion, after receipt of the explanation from the petitioner, that the offence is proved, it has every right to impose the penalty prescribed under the rules. It has also the right to seize the adulterated product, if any, remaining with the petitioner by making necessary arrangements to drain out such product. But, suspension of sales of all the products pending enquiry would definitely cause inconvenience to the public, and affects the reputation of the petitioner if the Corporation later comes to a conclusion that he is liable to be exonerated.

In the light of the above circumstances, clause No.3 of the impugned order dated 15-10-2004 is held arbitrary and it is struck down. The 1st respondent has every liberty to proceed with the enquiry. The petitioner is directed to submit his explanation to the show-cause notice within seven (7) days from the date of receipt of a copy of analyst report, if any, going to be supplied by the 1st respondent, and, after conducting the enquiry, if any, the 1st respondent has every liberty to come to a conclusion and pass appropriate orders according to the rules and guidelines.

The respondent is at liberty to drain out the alleged adulterated HSD before the commencement of sale afresh and is at liberty to recover the cost of draining out

and transportation, according to the rules.

With the above said observation, the writ petition is disposed of. No order as to costs.

_____ Dr.G.YETHIRAJULU, J.

Dated: 27th October, 2004.

LR COPY TO BE MARKED: YES

*TSNR

TO

1. The Chief Divisional Sales Manager, Indian Oil Corporation, 3-6-436to 438, 2nd floor, Naspur House, Himayatnagar, Hyderabad.
2. The Assistant Manager (RS), Kurnool, Kurnool District.
3. The Secretary, Ministry of Petroleum, Government of India, New Delhi.
4. Two.D.Copies